DOCUMENT RESUME

ED 375 270 CE 067 414

TITLE	A Review of the Operations of the State Board of Independent Postsecondary Vocational, Technical, Trade, and Business Schools. Report 1.
INSTITUTION	Florida State Postsecondary Education Planning Commission, Tallahassee.
PUB DATE	93
NOTE	37p.
PUB TYPE	Reports - Research/Technical (143)
EDRS PRICE	MF01/PC02 Plus Postage.
DESCRIPTORS	Postsecondary Education; *Proprietary Schools; *State Legislation; *State Licensing Boards; *State Standards; *Vocational Education; Vocational Schools
IDENTIFIERS	*Florida

ABSTRACT

A review was conducted of the operations of the State Board of Independent Postsecondary Vocational, Technical, Trade, and Business Schools in Florida. The review had the following aims: to determine the history of board action upon school closure and recommend changes to protect students adequately when their schools close; to examine the implementation issues regarding adoption of competencies for vocational programs; to determine if Florida law is sufficient to ensure that students benefit from their education programs; and to determine if any other issues need to be reviewed. Information was gathered through public meetings and written and oral opinions from persons within and outside the proprietary schools sector. Among the recommendations made as a result of the review were the following: (1) a set of standards for assessing programs should be created; (2) schools should administer a basic skills test to students before they enter their programs and refer those who do not pass them to other programs if they do not have the resources to serve such students; (3) records should show why and how a school closed, and procedures for ensuring that students receive the education they have paid for in the event of school closings should be set up; (4) a student bill of rights should be created; (5) common data elements should be included in the transcripts of all students from all the proprietary schools; (6) adequate fee structures that the schools pay to protect their students from school closures should be adopted; (7) degree requirements should be standardized; and (8) a plan should be made to update and maintain the board's data system. (Appendixes to the document include statutes governing the board; commission survey and results; and student protection plan, student complaints, and school closure data.) (KC)

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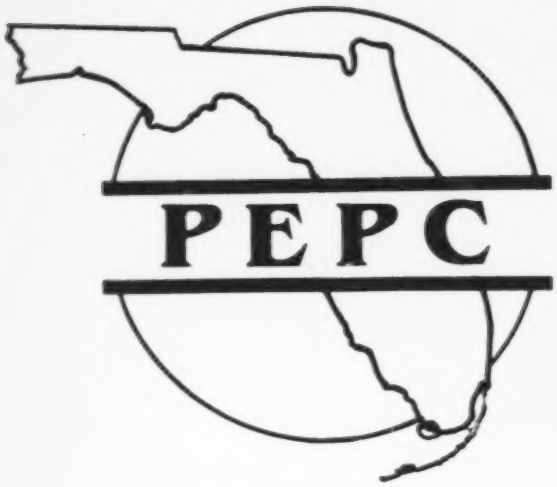

A REVIEW OF THE OPERATIONS OF THE STATE BOARD OF INDEPENDENT POSTSECONDARY VOCATIONAL, TECHNICAL, TRADE, AND BUSINESS SCHOOLS

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Report and Recommendations of the Florida Postsecondary Education Planning Commission

CE 067 414

1993 - REPORT 1

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The Postsecondary Education Planning Commission, initially created by executive order in 1980 and subsequently given statutory authority (SS 240.145 and 240.147, Florida Statutes), serves as a citizen board to coordinate the efforts of postsecondary institutions and provide independent policy analyses and recommendations to the State Board of Education and the Legislature. The Commission is composed of 11 members of the general public and one full-time student registered at a postsecondary education institution in Florida. Members are appointed by the Governor with the approval of three members of the State Board of Education and subject to confirmation by the Senate.

The major responsibility of the Commission is preparing and updating every five years a master plan for postsecondary education. The enabling legislation provides that the Plan "shall include consideration of the promotion of quality, fundamental educational goals, programmatic access, needs for remedial education, regional and state economic development, international education programs, demographic patterns, student demand for programs, needs of particular subgroups of the population, implementation of innovative educational techniques and technology, and the requirements of the labor market. The capacity of existing programs, in both public and independent institutions, to respond to identified needs shall be evaluated and a plan shall be developed to respond efficiently to unmet needs."

Other responsibilities include recommending to the State Board of Education program contracts with independent institutions; advising the State Board regarding the need for and location of new programs, branch campuses and centers of public postsecondary education institutions; reviewing public postsecondary education budget requests for compliance with the State Master Plan; and periodically conducting special studies, analyses, and evaluations related to specific postsecondary education issues and programs.

Further information about the Commission, its publications, meetings and other activities may be obtained from the Commission office, 231 Collins Building, Department of Education, Tallahassee, Florida, 32399-0400; telephone (904) 488-7894; FAX (904) 922-5388.

POSTSECONDARY EDUCATION PLANNING COMMISSION

A REVIEW OF THE OPERATIONS OF THE STATE BOARD OF INDEPENDENT POSTSECONDARY VOCATIONAL, TECHNICAL, TRADE, AND BUSINESS SCHOOLS

Prepared in Response to
Section 7 of Chapter 93-170, Laws of Florida

1993 - Report 1

December, 1993

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EXECUTIVE SUMMARY

The 1993 Legislature directed the Postsecondary Education Planning Commission to review the operations of the State Board of Independent Postsecondary Vocational, Technical, Trade, and Business Schools (SBIPVTTBS). The review was to accomplish at least the following:

(1) Review the history of board action upon school closure and recommend changes in law, rule, board policy, or board staff needed to adequately protect students when their schools close before the students complete an educational program.

(2) Review the policy and implementation issues associated with adding a requirement that the board must adopt competencies for vocational programs conducted by independent schools. The review should consider the competencies adopted for public vocational schools by the State Board of Vocational Education and determine what changes would be needed in law, rule, or board resources if independent vocational schools were required to adopt and teach those competencies. This inquiry may include a review of the duties of licensing boards in other states and by the Department of Professional Regulation. It may also include an assessment of sanctions required to ensure that competencies adopted were actually achieved.

(3) Determine whether the requirements in Section 246.213(2) (b), Florida Statutes, are necessary and sufficient to ensure that students have an ability to benefit from their education programs.

(4) Survey board members, staff, and licensed schools to determine if any further issues need to be reviewed. The survey may be by sample.

Since 1982, in five separate studies, the Commission has made recommendations for improving proprietary education in Florida. This review revisits some of the issues contained in those previous studies and raises some new areas of concern. Although there are many important issues relating to proprietary education in Florida, none have remained as central to any discussion of private vocational education as school closure, program content, and student readiness. Progress in each of these areas has been made, in part due to recommendations made by the Commission and enacted by the Legislature and the licensing Board, yet throughout the proprietary sector there is still a need to ensure program consistency, protect students from the adverse affects of unexpected school closure, provide for the retrieval and safekeeping of student records, and ensure that students are able to benefit from their educational programs. In short, the Board needs to use its statutory authority to implement the rules and procedures necessary to more effectively ensure accountability among the schools under its auspices. At the same time, the Commission recognizes that since its last study the oversight responsibilities of both the Board and its staff have increased, yet the State no longer provides general revenue funding to support the activities required of the SBIPVTTBS. The number of professional and support staff required to adequately serve and regulate the State's proprietary schools needs to be seriously revisited.

The Commission's specific recommendations for change and improvement in the proprietary sector are as follows:

Recommendations:

1. In accordance with Section 246.207(2) (d), F.S., the SBIPVTTBS should immediately appoint a committee of Board members and school owners to adopt a set of standards for assessing each program licensed by the Board. *As part of this process, the committee should review any existing standards or guidelines developed by the Division of Vocational, Adult and Community Education (DVACE), individual proprietary institutions, or professional associations. The Board should establish clearly defined definitions for each standard used to assess the programs licensed by the Board.*

2. Section 246.213(2) (b), F.S., and State Board of Education (SBE) Rule 6F-2.002(5) (b) should be amended requiring nonpublic schools offering programs of 450 clock hours or more that do not have the qualified staff and adequate resources necessary to provide basic skills remediation to : (a) administer a basic skills test to all students who do not have a high school diploma or GED before they enter the program, and (b) refer students who fail the tests to a public or private institution that provides adequate basic skills remediation. *Tests shall be selected from among those currently listed in rule, or from among any of the federally approved Ability to Benefit examinations.*

3. The SBIPVTTBS should enforce Section 246.213(2) (b), F.S. and SBE Rule 6F-2.002(5) (b) that require basic skills testing and remediation. *The Board's Annual Report should identify any school that is out of compliance with the statute and rule and what sanctions have been imposed on that institution.*

4. As part of their initial or renewal licensure process, all schools licensed by the SBIPVTTBS that offer programs of 450 clock-hours or more should identify and publish in their catalogues the basic skills test(s) used by the school for each program and the cut-off scores for each program. *Schools should also report to the Board each year the number of students taking, passing and failing the examinations by program.*

5. The SBIPVTTBS data system should identify why and how a school closed and if student records were received in a timely and accurate manner. *The data system should identify the number of students who were trained out, received a refund from the student protection plan, or received no assistance of any kind.*

6. The SBIPVTTBS should appoint and activate a "Closed School Committee" comprised of Board members, school owners and staff who, in the event of school closure, can assist in overseeing train-out agreements and the transfer of student records to the Board. *Team members should develop close contact with the accrediting agencies and the Federal Department of Education's financial aid division to encourage early warnings of school closure.*

7. The SBIPVTTBS should identify school closure warning indicators based on the review of financial statements, default rates, student complaints received by the Board, and other measurable information. *Such indicators could forewarn Board members and staff of institutions which are operating with increased risk of closure and should activate a visit by the Closed School Committee to assist in resolving school financial/administrative/programmatic problems before a school closes.*

8. The SBIPVTTBS should develop and adopt a "Student Bill of Rights and Responsibilities" and require its inclusion in all student handbooks and registration materials. *Such a document should explain*

the provisions of the Student Protection Plan, existing train-out agreements, grievance procedures, and the Board's address and phone number.

9. The SBIPVTTBS should require, as a condition of initial licensure, that all new schools obtain a train-out agreement(s) for each program that they offer. *Such train-outs must be maintained for the first five years of operation, after which, the Board shall determine if the continuation of such agreements is warranted. Copies of all current train-out agreements should be provided to the Board. If a new school is unable to enter into a train-out agreement with another proprietary or public institution for any program, the Board should require that school to be assessed at a higher rate for participation in the Student Protection Plan.*

10. The SBIPVTTBS should identify common data elements to be included in the transcripts of all institutions licensed by the Board. *Each licensed institution should identify in its catalogue the permanent location of student records and the process for obtaining those records. As part of its licensing responsibilities, the SBIPVTTBS should monitor compliance with this requirement.*

11. The Board should periodically review and adjust as necessary the fee structure of the Student Protection Plan to ensure that it is equitable and that projected fee revenues are adequate to meet future student demand.

12. Section 246.203(1), Florida Statutes should be amended to read: <u>Any diploma program offered by a non-public college, university, or junior college</u> shall, for the purposes of ss. 246.201-246.231, be included in the definition of "school."

13. The SBIPVTTBS should develop a separate abbreviated license form for those degree-granting colleges or universities which also offer vocational non-degree programs. *Only those programs should be subjected to programmatic review or be required to participate in the Student Protection Plan.*

14. The SBIPVTTBS should develop a plan and related budget request to update and maintain its data system. *In addition, the plan and budget request should address the increased staff workload and responsibilities mandated by the 1993 Legislature and recommended by the Commission. To the extent possible, any additional personnel needed should be on a contracted service basis.*

I. INTRODUCTION

The 1993 Legislature enacted Chapter 93-170, Laws of Florida which contains revisions and additions to Chapter 246 of the Florida Statutes (See Appendix A). The law further directed the Commission to review the operations of the State Board of Independent Postsecondary Vocational, Technical, Trade, and Business Schools (SBIPVTTBS). The law called for the Commission to review, at a minimum, the history of board action upon school closure and to recommend changes in law, rule, board policy, or board staff needed to adequately protect students if their schools close; review the policy and implementation issues associated with adding a requirement that the Board must adopt competencies for vocational programs conducted by independent schools; and determine whether the requirements in section 246.213(2) (b), F.S., are necessary and sufficient to ensure that students have an ability to benefit from their education programs. The SBIPVTTBS review was assigned to the Program Committee by the Commission Chairman. Members of the Program Committee included Inez Bailey, Chairwoman, James Talley, Robert Taylor and Mark Wheeler.

The Commission has conducted several studies pertaining to proprietary education in Florida. In its 1989 study, ***An Update of Proprietary Education in Florida,*** the Commission addressed the need for a student protection plan, the need for program consistency throughout the proprietary sector, and the need to ensure that students have the ability to benefit from their educational programs. The Commission's recommendations in these areas have been implemented in part over the last five years. This review revisits these and other areas of concern and recommends ways of further strengthening existing laws, rules and procedures to better protect the students and consumers of Florida while improving the overall quality of private vocational education in Florida.

Over the years the Commission has continually stressed that proprietary schools are a vital component of the postsecondary educational sector in Florida. Moreover, the Commission has emphasized the necessity of developing and maintaining a coordinated delivery of postsecondary education in which duplication is avoided and quality education is provided in the most cost-effective manner possible. Private vocational schools are particularly adept at providing training that is geared toward specific careers or job opportunities and have the ability to quickly meet the changing needs of the job market. The tremendous growth of and changes within the proprietary sector have increased the governance and oversight responsibilities of both the Board and its staff, yet the State no longer provides general revenue funding to support the activities required of the SBIPVTTBS. Since 1992, the full operating costs of the Board have been paid for through fees collected from the 491 licensed schools. The required duties of the professional and support staff have increased while their numbers remain disproportionally low in comparison to their responsibilities. For instance, a professional staff of five is responsible for the day-to-day oversight, including on-site visitations, for all licensed schools. The other state licensing board, the State Board of Independent Colleges and Universities (SBICU), has a professional staff of four, yet the majority of private universities and colleges in Florida (192) are exempt from licensure because of accreditation status or educational mission.

To facilitate a thorough review of the SBIPVTTBS, the Commission held public meetings and solicited the written and oral

and outside of the proprietary sector. In addition, Commission staff conducted a survey of school owners (See Appendix B) and met with members and staff of the Board, legislative staff, school owners and Department of Education personnel to discuss the study and its recommendations. The Committee held its last public hearing on December 14, 1993 and presented a final report to the Commission on December 15 for action and transmittal to the Legislature and State Board of Education by January 1, 1994.

II. PROPRIETARY EDUCATION IN FLORIDA

Approximately 74,000 students currently attend the State's 491 proprietary schools. These institutions offer a wide variety of vocational programs that prepare students for related employment and career opportunities. During FY 1992-93, 40,145 students graduated from the proprietary sector. According to self-reported data provided to the licensing board, 30,033 of these graduates (75%) were placed in jobs, joined the military, or continued their education at an institution of higher learning.

To operate in Florida, proprietary schools must be licensed by the State Board of Independent Postsecondary Vocational, Technical, Trade, and Business Schools (SBIPVTTBS) comprised of nine members appointed by the Governor. The purpose of the Board is to function as a consumer protection agency by protecting students who attend proprietary schools from "deceptive, fraudulent, or substandard education." The Board is also charged with ensuring the integrity of the degrees, diplomas and certificates awarded by the proprietary schools. Sections 246.201-231, F.S. and Rules 6F-1.001-4.001, F.A.C. delineate the guidelines and criteria with which a school must comply to meet licensing requirements. These standards are enforced through rules and procedures established by the Board and approved by the State Board of Education. The activities, policies and practices of each school are monitored by the office and staff of the Executive Director.

In its twenty year history the Board has undergone changes which have expanded and clarified its ability to protect students attending proprietary schools and to discipline those schools operating in an unethical or deleterious manner. Since 1992, the operating costs of the Board have been fully supported by fees rather than by legislative appropriation. As the responsibilities of the Board and staff have increased, so have the school's licensing fees. Schools often pass these fees on to students in the form of increased tuition.

As previously mentioned, the Commission was charged with reviewing the operations of the SBIPVTTBS and was directed to address three specific areas of concern: school closure, student competencies and the ability to benefit. Each of these areas has been addressed by the Commission before, but their importance to the proprietary sector continues to warrant their reexamination. The Commission was also directed to survey licensed school owners and board members to determine if other issues should be reviewed. As a result, the Commission has made recommendations on a wider range of issues including basic skills testing, dual licensure, board composition and the statutory intent of the student protection plan.

The Commission was assigned the review of the SBIPVTTBS as part of the 1993 statutory modifications to Sections 246.203-246.2335, F.S. Those amendments authorize the Board to expand the Student Protection Plan to repay student loans for those schools that close or terminate a program. The legislation also authorizes the Board to require surety bonds to ensure payment of liabilities to the fund for the retrieval or safekeeping of student records. Out of concern for the continuing problem of school closure and record retrieval, the legislation established both civil and criminal penalties for schools that do not close in an orderly fashion and expands the Board's authority to conduct investigations into the background of school owners to determine if

they have ever closed a school and failed to provide a train-out for their students. The new legislation also authorizes the Board to establish a school administrator training program to provide training for personnel in charge of admissions, placement, financial aid and other related departments.

Curriculum Frameworks/Competencies

In its 1989 proprietary study, the Commission recommended that, to encourage consistency among vocational certificates, degrees, and diplomas, the SBIPVTTBS should require all of its schools to use, as deemed appropriate by the Board, the competencies (student performance standards) and curriculum frameworks (intended outcomes and major concepts) developed by the Department of Education. The curriculum frameworks and competencies in use by public institutions are reviewed regularly by committees appointed by the Division of Vocational, Adult and Community Education (DVACE) and the State Board of Community Colleges. Members of the SBIPVTTBS and school owners have been invited to join such committees by the director of the DVACE. Although the Board has discussed using the existing frameworks, and/or competencies, and some proprietary schools do, it has never adopted a rule to require schools to use any specified frameworks or competencies. Some school owners and board members have expressed a preference for board-developed frameworks and competencies. Proponents of adopting the DVACE standards contend that undertaking such a complex and time consuming process would be duplicative. Adding further to the debate is the fact that some programs offered by the proprietary sector are not offered in the public schools and some long running proprietary programs have successfully developed their own competencies and frameworks. Only in those programs where SBIPVTTBS schools have adopted the curriculum frameworks and student performance standards used by the public vocational schools is it possible to assess the comparability between the public and private sectors.

School Closure and Student Protection

Since 1980, 668 institutions licensed by SBIPVTTBS have closed their operations. According to the Board's executive director, the majority of these schools closed in an orderly manner, that is, by notifying students and/or completing the training of enrolled students or arranging train-out agreements with other schools. Although the data system used by the Board does not differentiate between a school that closes in an orderly fashion and one that does not, staff of the SBIPVTTBS report that only a handful of the above schools closed suddenly without notifying their students or the Board. It is at these latter schools that current policy and practice fall short in protecting students in terms of access to their records, completion of training, and indebtedness for student loans for training not completed.

School or program closure becomes a student protection concern in two ways: 1) students do not receive the training they need for employment or advancement, and 2) financially, students may lose tuition monies and be held liable for federal student loans used to pay for the training they did not receive. In 1990, the Board established a fee-based student protection plan to make funds available to complete the training of any students who enrolled in a school that closed before the student completed a program of study. Fees are assessed based on the number of students enrolled and the length of the program during the preceding fiscal year (see Appendix C). The original intent of the Student Protection Plan was to provide funds for the completion of a student's training. It was never intended to be solely a refund program per se. That is, funds were to be

provided, if necessary, to a student or train-out school to ensure that the affected student completed his or her training. The Board adopted rules in 1991 to create the Student Protection Plan. Rule 6F-2.0017(2) states that "The intent of this fund is to establish a financial program through which funds will be available to complete the training of students who enroll in independent postsecondary, vocational, technical, trade or business schools that cease operations before the students have completed the program." Historically, proprietary schools have arranged, with or without board intervention, train-outs for students who were adversely affected by a school's closure. Twenty-six percent of the respondents to the Commission's survey reported that they had trained-out students of another institution that had closed in Florida.

Revisions were made to Section 246.207(2) (g), F.S., by the 1993 Florida Legislature that gave the Board the authority to broaden the scope of the Student Protection Plan to include the "repayment of federal student loans for students enrolled in nonpublic schools that terminate a program or cease operation before the student has completed his program of study." The current balance of the fund is $283,445. This amount would not be sufficient to handle the fiscal demands of a large school closure, particularly if the students affected had received federal financial aid. The Fund might be sufficient to cover additional tuition fees or limited pro-rata refunds if a train-out option were unavailable. To date, no disbursements have been made from the Fund but it is not clear if all students in the sector are aware of it. Revisions to Section 246.207(2) (g), F.S., also mandate that the Fund be actuarially sound and periodically audited. Currently, the Board's budget does not contain the funds (estimated in excess of $35,000) to conduct an actuarial study.

Another issue related to school closure is the nature and number of complaints made by students and consumers against schools licensed by the Board. Over the three year period, 1990-91 to 1992-93, a total of 1,163 complaints were filed with the SBIPVTTBS. The complaints involved 375 schools, and in most cases, individual schools had a minimal number of complaints filed against them. Of those schools against which complaints were filed over the three-year period, 87 percent of the institutions were named in five or fewer complaints and 98 percent in 10 or fewer complaints. More than one-third of the complaints were filed against three institutions. (See Appendix C).

Complaints filed against schools are initially and primarily handled by SBIPVTTBS staff according to defined administrative procedures. SBIPVTTBS staff act essentially as intermediaries in resolving any conflict between the student complainant and school. Board intervention results when resolution of a complaint cannot be reached. The Board also becomes involved in complaint resolution following an on-site visitation by staff, during which violation of rule or statute was found. If the Board's review finds probable cause, the issue is referred to the Division of Administrative Hearings. Recent revisions to Section 246.207(1) (q), F.S., direct the Board to establish and publicize the procedures for receiving and responding to complaints filed against schools (See Appendix A). The legislation directs the Board to notify in writing the person who filed the complaint of the status of the investigation. These procedures have not yet been written into rule.

Ability to Benefit

Students who do not possess adequate basic skills in reading, comprehension and mathematics cannot benefit from training

programs that require a minimum literacy level. In its 1989 study, the Commission recommended that proprietary schools require the same basic skills testing and remediation as is required for public vocational programs of 450 clock hours or more. Legislation and rules implementing that recommendation were passed in 1990. SBIPVTTBS rules allow an exception for students with a high school diploma or a GED. In the public sector, only students with an associate of arts degree or higher are exempt from the testing requirements. Problems enforcing the rule have arisen as many proprietary schools do not have the staff to adequately remediate students who fail one of the basic skills examinations. In addition, once students enroll in a program it is difficult to refuse to grant them a diploma if they do not pass a basic skills test. It is clear that the intent of the law is not being followed in all cases.

Students who receive federal financial aid and do not have a high school diploma or GED must pass a federally approved ability to benefit test (ATB). Several of these exams are also listed in Department of Education rules as basic skills tests. In the last several years, the number of approved ATB tests have been reduced and their quality and reliability improved. Some proprietary school administrators support using ATB examinations as basic skills tests. Others prefer that the schools use basic skills tests to fulfill ATB requirements. Currently, some students are required by state or federal regulations to take both examinations which causes unnecessary duplication and hardship on both students and schools. The bottom line is that students should be ready to benefit, i.e., attain necessary job skills from their vocational training, as soon as they enter a program.

Dual Licensure

The Commission initially recommended in 1989 that all private schools offering vocational programs submit those programs to the SBIPVTTBS for review and licensure. The Commission never intended for institutions which are essentially academic, degree-granting colleges or universities to be licensed by the Board, but did intend for any program(s) offered by such institutions to be subject to the same licensing procedures required of vocational, technical or career colleges. Section 246.203(1), F.S., defines any institution that conducts a diploma program as a "school" subject to licensure by the SBIPVTTBS. This has led some colleges and universities to the erroneous conclusion that their entire institution, not just their diploma program(s), was to be regulated by the SBIPVTTBS.

Board Staff and Resources

Since the Commission's 1989 study, the number of schools licensed by the Board has increased by 15 percent. The Board now regulates all cosmetology, trucking and barber schools which, until 1990, were not under its auspices. At the same time that the Board's oversight responsibilities have increased, its professional and support staff have decreased. Although the data collection and reporting duties of the Board have expanded, its current data system is hampered by equipment that can not kept pace with those added responsibilities.

III. ISSUES AND RECOMMENDATIONS

Curriculum Frameworks/Competencies

The Commission recommended in its 1989 report, ***An Update of Proprietary Education in Florida***, that all schools licensed by the State Board of Independent Postsecondary Vocational, Technical, Trade, and Business Schools (SBIPVTTBS) should adopt, when appropriate, the competencies (student performance standards) and curriculum frameworks (major concepts and intended outcomes) developed by the Department of Education's Division of Vocational, Adult and Community Education (DVACE). The rationale for this recommendation was to ensure that regardless of their unique approach to education, programs in the proprietary sector provide students with the educational training necessary to succeed in the workforce. To date, this recommendation has been discussed but not implemented by the SBIPVTTBS. A small minority of the proprietary schools voluntarily follow the DVACE frameworks and competencies; others have developed their own similar guidelines. Only in those instances where the SBIPVTTBS fully adopts the DVACE frameworks and competencies, would it be possible to adequately assess and compare programs in the public and private sectors.

Section 246.207(2) (d), F.S., authorizes the Board to adopt standards to determine student outcome requirements. Rule 6F-2.002(5) (a) provides broad guidelines for program development: "Programs shall be related to the school's purpose and organized to provide a sequence which leads to the attaining of competence in the respective area or field of study." Rule 6F-2.002(5) (b) directs schools to develop programs to prepare students for occupations that "conform to the standards and training practices generally acceptable by the occupational fields for which students are being prepared." The Board's rules also provide that programs shall be "within twenty-five percent of the typical length for the average achieving student" as specified in the DVACE curriculum frameworks Rule 6F-2.002(5) (c). In addition, state law requires that student completers of certain programs (acupuncture, cosmetology, child care) receive outside validation (state exam or certification) as a condition of licensure in their field. Approximately twenty-six percent of students enrolled in the proprietary sector last year were subject to external validation requirements.

To date, the Board has adopted minimal guidelines and measures to evaluate the quality and substance of over 2000 vocational programs under its auspices. Consequently, course content and program length vary considerably among schools offering similar training. As a result, the Board has few indicators with which to gauge the quality or consistency of many licensed programs. In addition, some school owners, especially those new to the field of education, have no consistent guidelines or standards to follow for program development or student competencies.

Recommendation:

1. In accordance with Section 246.207(2) (d), F.S., the SBIPVTTBS should immediately appoint a committee of Board members and school owners to adopt a set of standards for assessing each program licensed by the Board. *As part of this process, the committee should review any existing standards or guidelines developed by the Division of Vocational, Adult and Community Education (DVACE), individual proprietary institutions, or professional associations. The Board should establish*

clearly defined definitions for each standard used to assess the programs licensed by the Board.

Ability to Benefit

The term "ability to benefit" means that students enrolled in a specific vocational program possess, or will possess, the basic skills necessary to benefit from their training. In other words, students who are not capable of understanding or completing a program of study or training should not be allowed to enroll in such a program until they have mastered certain requisite skills. The federal government requires all students who receive federal aid from one of the Title IV Financial Aid programs to pass a designated Ability to Benefit (ATB) examination before enrolling in the program. Students who do not meet minimum test score levels identified for certain programs are restricted from enrolling in the program but can re-take the examination after remediation, i.e., coursework designed to improve their comprehension, grammar and computation skills. Strict guidelines now exist as to who can administer, grade and evaluate the tests. For instance, students cannot be tested at the school where they plan to attend, and the test may not be administered by anyone with a financial interest in the institution.

Two-thirds of the schools licensed by the SBIPVTTBS are non-accredited schools ineligible for federal aid; thus, a number of proprietary students are not subject to ATB examinations before enrolling in training programs. However, all students who enroll in any proprietary school must take and pass one of five basic skills examinations listed in Rule 6F-2.002(5) (b), F.A.C. Exceptions are provided for proprietary students with a GED or high school diploma and for public vocational students with an associate of arts or higher degree, (Rule 6A-10.040(8), F.A.C.). Remediation must be provided to those students in both the public and private sectors who lack the required minimal level of basic skills necessary to complete the training program. Because many proprietary schools do not have staff qualified to provide basic skills remediation, this statutory requirement has not been enforced. In fact, according to the results of the Commission's random survey of the proprietary sector conducted this fall, many schools may not be aware of the statute. Fifty-seven percent of survey respondents reported that they had enrolled students who did not have a high school diploma or GED, and thirty-five percent of the schools had students without a high school diploma or GED who withdrew from school before finishing their training program. Yet only nine percent of the respondents indicated that their students required basic skills remediation. While any student testing at or below the eighth grade level can receive free remediation as part of the State's adult literacy programs, only three schools responding to the survey had referred their students to the public sector to seek remediation. Students testing above the eighth grade level may use the resources of district vocational centers or community colleges at minimal cost. Proprietary school owners are reluctant to refer their students to public remediation services because of the possibility that those students would remain at the public institutions for training. There is also concern among Board members that the private schools could be sued by students who paid to enroll in a program and then were denied a certificate because they could not pass a basic skills test.

Logic suggests that students in both the public and private sectors who are tested ***before***, not after, entering a program would be better able to adequately gauge their ability to master the skills required in their training. Likewise, if remediation were provided to all students before they entered or began training in a specific vocational program, it could enhance

their ability to complete their training program. All public vocational programs offer basic skills remediation before or concurrent with program training because those institutions are provided with the staff and resources to do so. Many proprietary schools, particularly the smaller ones, are not able to provide remediation at any time to students who lack basic skills. Consequently, many schools are in violation of Section 246.213(2) (b), F.S. which requires students to attain measurable basic skills before being granted a diploma.

Because so many proprietary students are required to take both an ATB and basic skills examination, it would significantly reduce the incidence of duplicative testing if students in the proprietary sector were allowed to use one examination to satisfy both the federal and state governments' assessment of entry level skills. Because the ATB examinations are now federally approved and normed to correspond with each individual program of study, they are also adequate to serve as basic skills examinations in the proprietary sector.

Recommendations:

2. Section 246.213(2) (b), F.S., and State Board of Education (SBE) Rule 6F-2.002(5) (b) should be amended requiring nonpublic schools offering programs of 450 clock hours or more that do not have the qualified staff and adequate resources necessary to provide basic skills remediation to : (a) administer a basic skills test to all students who do not have a high school diploma or GED before they enter the program, and (b) refer students who fail the tests to a public or private institution that provides adequate basic skills remediation. *Tests shall be selected from among those currently listed in rule, or from among any of the federally approved Ability to Benefit examinations.*

3. The SBIPVTTBS should enforce Section 246.213(2) (b), F.S. and SBE Rule 6F-2.002(5) (b) that require basic skills testing and remediation. *The Board's Annual Report should identify any school that is out of compliance with this statute and rule and what sanctions have been imposed on that institution.*

4. As part of their initial or renewal licensure process, all schools licensed by the SBIPVTTBS that offer programs of 450 clock-hours or more should identify and publish in their catalogues the basic skills test(s) used by the school for each program and the cut-off scores for each program. *Schools should also report to the Board each year the number of students taking, passing and failing the examinations by program.*

School Closure and Student Protection

School closures can adversely affect students, particularly when adequate student records are not kept, or when schools close without enough forewarning. It is also difficult to adequately gauge the effect of school closings on proprietary students in Florida because data that are currently collected and maintained by the Board are inadequate for identifying how many and which schools closed without forwarding student records to the Board or without providing for completion of training for students. Over the last several years, the proprietary sector in Florida has worked to lessen the negative impact of school closings by arranging train-out agreements to ensure that students complete their educational program at a similar, nearby school. Although train-out agreements are not a mandatory condition of licensure, forty-two percent of the respondents to the Commission's survey support a mandatory train-out agreement for all licensed schools. In addition, the State has established a fee-based

Student Protection Plan to provide funds to students who need additional monies to complete their training. This protection system has worked in most instances of school closure but has not been totally effective in preventing schools from closing that do not provide the Board with notice or do not make provisions to transfer student records to the SBIPVTTBS. Too often the Board has been placed in a reactive rather than a pro-active position in dealing with school closures. In such cases, if a school closes without warning, the Board is unable to arrange for a train-out or pro-rata refund to students adversely affected by the closing. This is especially problematic if the federal government is involved in a forced school closure as records may be impounded. Additional problems may arise later if a student wishes to transfer to another institution or to have records made available to a prospective employer, and the closed school did not forward records or keep adequate student records on file. Access to student records is complicated by the fact that the Board has not established a common transcript or provided for centralized storage or retrieval of such records.

In the event of multiple school closure, the amount of money currently available in the Student Protection Plan ($283,445) may be insufficient to provide a pro-rata refund for those students unable to participate in a train-out agreement, i.e., students enrolled in a particular program not offered at another school within a certain geographical area. It is also feasible that students may refuse to accept train-out agreements and demand to have a pro-rata refund. Should this happen at a large school, the funds in the protection plan could easily be depleted. While the Board has the authority and has debated the possibility of requiring certain schools to post a bond to cover the expenses related to school closure, it has never done so. Securing a bond can be expensive but not prohibitive for schools, particularly those with a sound fiscal record and sufficient liquid assets. It is not these schools with sound fiscal records and sufficient liquid assets, however, that are typically at risk of closing.

School closures can cause difficulties for everyone involved. Often it is a lack of early and clear communication between the Board and its schools and the schools and their students that leads to unnecessary confusion and interruption in the training and education of proprietary school students. By strengthening the linkages between the governing board, the institutions, the accrediting agencies, the federal government, and the students themselves, the negative impact associated with school closure can be minimized.

Recommendations:

5. The SBIPVTTBS data system should identify why and how a school closed and if student records were received in a timely and accurate manner. *The data system should identify the number of students who were trained out, received a refund from the student protection plan, or received no assistance of any kind.*

6. The SBIPVTTBS should appoint and activate a "Closed School Committee" comprised of Board members, school owners and staff who, in the event of school closure, can assist in overseeing train-out agreements and the transfer of student records to the Board. *Team members should develop close contact with the accrediting agencies and the Federal Department of Education's financial aid division to encourage early warnings of school closure.*

7. The SBIPVTTBS should identify school closure warning indicators based on the review of financial statements, default rates, student complaints received by the Board, and other measurable information. *Such*

indicators could forewarn Board members and staff of institutions which are operating with increased risk of closure and should activate a visit by the Closed School Committee to assist in resolving school financial/administrative/programmatic problems before a school closes.

8. The SBIPVTTBS should develop and adopt a "Student Bill of Rights and Responsibilities" and require its inclusion in all student handbooks and registration materials. *Such a document should explain the provisions of the Student Protection Plan, existing train-out agreements, grievance procedures, and the Board's address and phone number.*

9. The SBIPVTTBS should require, as a condition of initial licensure, that all new schools obtain a train-out agreement(s) for each program that they offer. *Such train-outs must be maintained for the first five years of operation, after which, the Board shall determine if the continuation of such agreements is warranted. Copies of all current train-out agreements should be provided to the Board. If a new school is unable to enter into a train-out agreement with another proprietary or public institution for any program, the Board should require that school to be assessed at a higher rate for participation in the Student Protection Plan.*

10. The SBIPVTTBS should identify common data elements to be included in the transcripts of all institutions licensed by the Board. *Each licensed institution should identify in its catalogue the permanent location of student records and the process for obtaining those records. As part of its licensing responsibilities, the SBIPVTTBS should monitor compliance with this requirement.*

11. The Board should periodically review and adjust as necessary the fee structure of the Student Protection Plan to ensure that it is equitable and that projected fee revenues are adequate to meet future student demand.

Dual Licensure

As a result of the Commission's 1989 study of proprietary education, all private postsecondary institutions offering vocational non-degree programs must have those programs licensed by the SBIPVTTBS. Historically, institutions that were licensed or exempt from licensure by the State Board of Independent Colleges and Universities (SBICU) were not required to apply to SBIPVTTBS for licensure for their non-degree programs. Currently 30 institutions offer both degree and non-degree programs. Only five of those institutions have dual licenses from both boards. The other 25 have only one license from the SBIPVTTBS as they are exempt from licensure by the SBICU because of accreditation status. There has been some confusion over the intent of the legislation that requires dual licensure. Specifically, the language in the statute governing the SBIPVTTBS does not clearly state that institutions that offer non-degree programs must apply for ***programmatic*** and not ***institutional*** licensure as is required by those schools offering only non-degree programs.

Recommendations:

12. Section 246.203(1), Florida Statutes should be amended to read: Any diploma program offered by a non-public college, university, or junior college shall, for the purposes of ss. 246.201-246.231, be included in the definition of "school."

13. The SBIPVTTBS should develop a separate abbreviated license form for those degree-granting colleges or universities which also offer vocational non-degree programs. *Only those programs should be subjected to*

programmatic review or be required to participate in the Student Protection Plan.

Board Staff and Resources

Since July 1992, the full operating costs of the Board have been paid for through the fees collected from the licensed schools. While the State continues to mandate increased oversight responsibilities for the Board, allocations for more professional staff and equipment have not been forthcoming even though the SBIPVTTBS did not spend its entire previous allocation due to a combination of cost-cutting measures and legislatively mandated reduction in personnel. To better facilitate its oversight and data collection duties, the Board needs to be directly connected to the Florida Education Center's computer network. This connection will allow the Board to electronically access information and share data with other agencies within the Department. The Board could then directly access the Florida Information Resource Network (FIRN) to share data with other divisions of State government such as the Department of Business and Professional Regulation and the Department of Labor and Employment Security. In addition, the number of professional and support staff required to adequately serve and regulate the State's proprietary schools should be seriously revisited.

Recommendation:

14. The SBIPVTTBS should develop a plan and related budget request to update and maintain its data system. *In addition, the plan and budget request should address the increased staff workload and responsibilities mandated by the 1993 Legislature and recommended by the Commission. To the extent possible, any additional personnel needed should be on a contracted service basis.*

Follow-Up

Although the Board will need time to adopt the recommendations in this report, it is important to set a reasonable deadline for complete implementation. Toward that end, the Commission will routinely ask for progress reports to assess the Board's compliance with this review and recommendations.

Appendix A

Statutes Governing SBIPVTTBS

246.201 Legislative intent.—

(1) Sections 246.201-246.231 shall provide for the protection of the health, education, and welfare of the citizens of Florida and shall facilitate and promote the acquisition of a minimum satisfactory vocational, technical, trade, and business education by all the citizens of this state. There are presently many fine nonpublic schools existing in this state, but there are some nonpublic schools which do not generally offer those educational opportunities which the citizens of Florida deem essential. The latter type of school also fails to contribute to the ultimate health, education, and welfare of the citizens of Florida. It shall be in the interest of, and essential to, the public health and welfare that the state create the means whereby all independent postsecondary vocational, technical, trade, and business schools as defined in s. 246.203(1) shall satisfactorily meet minimum educational standards.

(2) A common practice in our society is to use diplomas and degrees for many purposes. Some of these purposes are: for employers to judge the qualifications of prospective employees; for public and nonpublic professional groups, vocational groups, educational agencies, governmental agencies, and educational institutions to determine the qualifications for admission to, and continuation of, educational goals, occupational goals, professional affiliations, or occupational affiliations; and for public and professional assessment of the extent of competency of individuals engaged in a wide range of activities within our society.

(3) Because of the common use of diplomas and degrees, the minimum legal requirements provided by ss. 246.201-246.231 for the establishment and operation of independent postsecondary vocational, technical, trade, and business schools shall protect the individual student from deceptive, fraudulent, or substandard education, protect such independent postsecondary vocational, technical, trade, and business schools, and protect the citizens of Florida holding diplomas or degrees.

(4) Nothing contained herein is intended in any way, nor shall be construed, to regulate the stated purpose of an independent postsecondary vocational, technical, trade, and business school or to restrict any religious instruction or training in a nonpublic school. Any school or business regulated by the state or approved, certified, or regulated by the Federal Aviation Administration is hereby expressly exempt from ss. 246.201-246.231. Nonprofit schools, owned, controlled, operated, and conducted by religious, denominational, eleemosynary, or similar public institutions exempt from property taxation under the laws of this state shall be exempt from the provisions of ss. 246.201-246.231. However, such schools may choose to apply for a license hereunder, and upon approval and issuance thereof, such schools shall be subject to ss. 246.201-246.231.

History—s. 1, ch. 74-300; s. 1, ch. 75-32; s. 3, ch. 76-168; s. 1, ch. 77-457; s. 4, ch. 78-323; ss. 5, 6, 7, ch. 81-67; ss. 2, 3, ch. 81-318; s. 7, ch. 84-94; ss. 14, 15, ch. 86-275; s. 4, ch. 91-429.

246.203 Definitions.—As used in ss. 246.201-246.231, unless the context otherwise requires:

(1) "School" means any nongovernmental, postsecondary, vocational, technical, trade, or business noncollegiate educational institution, organization, program, home study course, or class maintained or conducted in residence or through correspondence by any person, partnership, association, organization, or corporation for the purpose of offering instruction of any kind leading to occupational objectives or of furnishing a diploma, as defined in subsection (6), in business, management, trade, technical, or other vocational education and professional schools not otherwise regulated. Nonpublic colleges and universities which award a baccalaureate or higher degree, and nonpublic junior colleges which award an associate degree in liberal arts, do not fall under the authority granted in ss. 246.201-246.231 unless the college, university, or junior college conducts, or seeks to conduct, a program for which a diploma, as defined in subsection (6), is to be awarded. Any nonpublic college, university, or junior college which conducts or seeks to conduct a diploma program shall, for the purposes of ss. 246.201-246.231, be included in the definition of "school." Schools offering only examination preparation courses for which they do not award a diploma as defined in subsection (6) do not fall under the authority granted in ss. 246.201-246.231, nor does a nonprofit class provided and operated entirely by an employer, a group of employers in related business or industry, or a labor union solely for its employees or prospective employees or members.

(2) "Business, management, trade, technical, or vocational education" means any instruction which prepares a person for employment in an occupation listed in the latest dictionary of occupational titles issued by the United States Department of Labor or declared by that department to be eligible for such listing or which is indicated by a school as leading to employment in an occupation.

(3) "Out-of-state school" or "school outside the state" means any school for which the place of instruction or legal place of residence or the place of evaluation of instruction or work by correspondence is not within the legal boundaries of the state.

(4) "Instruction" means the dissemination of knowledge or practice which signifies, purports to signify, or is generally taken to signify the preparation or education of a person generally or specifically for further understanding, study, skill, or training.

(5) "Agent" means a person employed by or representing a school within or outside the state to procure Florida students, enrollees, or subscribers by solicitation in any form, made at a place or places other than the office or legal place of business of a school.

(6) "Diploma" means a specialized associate degree, certificate, transcript, report, document, or title or designation, mark, appellation, or series of letters, numbers, or words which signifies, purports to signify, or is generally taken to signify satisfactory completion of the requirements of an educational, technical, or vocational program of study, training, or course except degrees as defined in s. 246.021.

(7) "Board" means the State Board of Independent Postsecondary Vocational, Technical, Trade, and Business Schools.

(8) "Governmental," refers to schools provided, operated, and supported by federal, state, or county governments or any of their political subdivisions.

(9) "Accreditation" means accredited status awarded to a school by an accrediting agency which is recognized by the United States Department of Education.

History—s. 2, ch. 74-300; s. 3, ch. 76-168; s. 1, ch. 77-457; s. 3, ch. 78-323; s. 8, ch. 79-164; ss. 5, 6, 7, ch. 81-67; ss. 2, 3, ch. 81-318; s. 7, ch. 84-94; ss. 14, 15, ch. 86-275; s. 16, ch. 86-344; s. 4, ch. 91-429; s. 1, ch. 92-[illegible].

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246.205 State Board of Independent Postsecondary Vocational, Technical, Trade, and Business Schools.—

(1) There shall be established in the Department of Education a State Board of Independent Postsecondary Vocational, Technical, Trade, and Business Schools. The board shall be assigned to the Department of Education only for the purpose of payroll, procurement, and related administrative functions which shall be exercised by the head of the department. The board shall independently exercise the other powers, duties, and functions prescribed by law. The board shall include nine members, appointed by the Governor as follows:

(a) One from a business school;

(b) One from a technical school;

(c) One from a home study school;

(d) One from a nonpublic school;

(e) Four from business and industry; and

(f) An administrator of vocational-technical education from a public school district or community college.

(2) Each of the members shall be appointed by the Governor, subject to confirmation by the Senate, for a term of 3 years. Of the original members appointed by the Governor, three shall serve for terms of 1 year, three shall serve for terms of 2 years, and three shall serve for terms of 3 years. Of the appointive members from the independent schools, each shall have occupied executive or managerial positions in an independent school in this state for at least 5 years. All members shall be residents of this state. In the event of a vacancy on the board caused other than by the expiration of a term, the Governor shall appoint a successor to serve the unexpired term.

(3) The board shall meet at the call of its chairman, at the request of a majority of its membership, at the request of the department, or at such times as may be prescribed by its rules.

(4) Board members shall be paid travel and subsistence expenses as provided by law while performing their duties under this act.

(5) Each board member is accountable to the Governor for the proper performance of the duties of his office. The Governor shall cause to be investigated any complaint or unfavorable report received concerning an action of the board or any member and shall take appropriate action thereon. The Governor may remove from office any member for malfeasance, misfeasance, neglect of duty, incompetence, permanent inability to perform official duties, or pleading guilty or nolo contendere to, or being found guilty of, a criminal offense.

History.—s. 3, ch. 74-306; s. 2, ch. 76-168; s. 4, ch. 77-85; s. 1, ch. 77-457; s. 4, ch. 78-323; ss. 1, 5, 6, 7, ch. 81-67; ss. 2, 3, ch. 81-318; s. 7, ch. 84-94; ss. 2, 14, 15, ch. 86-275; s. 17, ch. 89-344; s. 4, ch. 91-429.

246.207 Powers and duties of board.—

(1) The board shall:

(a) Hold such meetings as are necessary to administer efficiently the provisions of ss. 246.201-246.231.

(b) Select annually a chairperson and a vice chairperson.

(c) Adopt and use an official seal in the authentication of its acts.

(d) Make rules for its own government.

(e) Prescribe and recommend to the State Board of Education rules as are required by ss. 246.201-246.231 or as it may find necessary to aid in carrying out the objectives and purposes of ss. 246.201-246.231.

(f) Administer ss. 246.201-246.231 and execute such rules adopted pursuant thereto by the State Board of Education for the establishment and operation of independent schools as defined in s. 246.203(1).

(g) Appoint, on the recommendation of its chairman, executives, deputies, clerks, and employees of the board.

(h) Maintain a record of its proceedings.

(i) Cooperate with other state and federal agencies in administering ss. 246.201-246.231.

(j) Prepare an annual budget.

(k) Transmit all fees, donations, and other receipts of money to the State Treasurer to be deposited in the General Revenue Fund.

(l) Transmit to the Governor, the Speaker of the House of Representatives, the President of the Senate, the minority leader of the Senate, and the minority leader of the House of Representatives on July 1, 1987, and each succeeding year an annual report which shall include, but not be limited to:

1. A detailed accounting of all funds received and expended.

2. The number of complaints received and investigated, by type.

3. The number of findings of probable cause.

4. A description of disciplinary actions taken, by statutory classification.

5. A description of all administrative hearings and court actions.

6. A description of the board's major activities during the previous year.

(m) Assure that no school that has met board requirements established by law or rule be made to operate without a current license due to scheduling of board meetings or application procedures for license renewal.

(n) Cause to be investigated criminal justice information, as defined in s. 943.045, for each owner, administrator, and agent employed by a school applying for licensure or renewal of licensure.

(o) Serve as a central agency for collection and distribution of current information regarding institutions licensed by the board.

1. The data collected by the board shall include information relating to the school administration, calendar system, admissions requirements, student costs and financial obligations, financial aid information, refund policy, placement services, number of full-time and part-time faculty, student enrollment and demographic figures, programs, and off-campus programs. Other information shall be collected in response to specific needs or inquiries. Financial information of a strictly proprietary, commercial nature is excluded from this requirement.

2. The data collected by the board must also include the data for the vocational education program evaluation reports required by s. 239.233 for each school that chooses to provide public information under s. 239.245.

3. The board shall provide to each participating institution annually the format, definitions, and instructions for submitting the required information.

4. The data submitted by each institution shall be accompanied by a letter of certification signed by the chief administrative officer of the institution, affirming that the information submitted is accurate.

5. A summary of the data collected by the board shall be included in the annual report to the Governor, the Speaker of the House of Representatives and the President of the Senate, the minority leader of the Senate, and the minority leader of the House of Representatives. The information collected by the board may also be used by the Department of Education for such purposes as statewide master planning, state financial aid programs, and publishing directories, by the Legislature, and to respond to consumer inquiries received by the board.

(p) Publish and index all policies and agency statements. If a policy or agency statement meets the criteria of a rule, as defined in s. 120.52(16), the board shall adopt it as a rule.

(q) Establish and publicize the procedures for receiving and responding to complaints from students, faculty, and others about schools or programs licensed by the board and shall keep records of such complaints in order to determine their frequency and nature for spe-

cific institutions of higher education. With regard to any written complaint alleging a violation of any provision of ss. 246.201-246.231 or any rule promulgated pursuant thereto, the board shall periodically notify, in writing, the person who filed the complaint of the status of the investigation, whether probable cause has been found, and the status of any administrative action, civil action, or appellate action, and if the board has found that probable cause exists, it shall notify, in writing, the party complained against of the results of the investigation and disposition of the complaint. The findings of the probable cause panel, if a panel is established, shall not be disclosed until the information is no longer confidential.

(2) The board may:

(a) Sue or be sued.

(b) Enter into contracts with the Federal Government, other departments of the state, or individuals.

(c) Receive bequests and gifts, which shall be used only for the purpose stated by the person making such bequest.

(d) Appoint committees to assist in developing standards or in determining the qualifications which shall be met in a given field of endeavor.

(e) Issue a license to any school subject to ss. 246.201-246.231 which is excluded from the licensing and regulatory requirements of ss. 246.201-246.231, upon voluntary application for such license and upon payment of the appropriate fee as set forth in s. 246.219.

(f) With the approval of the State Board of Education, establish and operate a branch office in the southeastern part of the state where the concentration of licensed schools renders such an office economically feasible.

(g) Establish and administer a statewide, fee-supported financial program through which funds will be available to complete the training of a student who enrolls in a nonpublic school that terminates a program or ceases operation before the student has completed his program of study or for repayment of a loan made under the federal Family Educational Loan Program. The financial program is named the Student Protection Fund. The board is authorized to assess a fee from the institutions within its jurisdiction for such purpose. The board shall assess a licensed school an additional fee for its eligibility for the Student Protection Fund. Any school that participates in the federal Family Educational Loan Program is eligible and must pay the additional fee. If a licensed school terminates a program before all students complete it, the board shall also assess that school a fee adequate to pay the full cost to the Student Protection Fund of repaying the federal loans of its students. The fund shall consist entirely of fees assessed to licensed schools and shall not be funded under any circumstances by public funds, nor shall the board make payments or be obligated to make payments in excess of the assessments actually received from licensed schools and deposited in the Institutional Assessment Trust Fund to the credit of the Student Protection Fund. The board shall identify students who may be eligible for repayment of their loans and notify them in writing of the availability of the Student Protection Fund. At each board meeting, the board shall consider the need for and shall make required assessments, shall review the collection status of unpaid assessments and take all necessary steps to collect them, and shall review all moneys in the fund and expenses incurred since the last reporting period. This review must include administrative expenses, moneys received, and payments made to students or to lending institutions. Staff of the board must immediately inform the board upon learning of the closing of a licensed school or the termination of a program which could expose the fund to liability. The Student Protection Fund must be actuarially sound, periodically audited, and reviewed to determine if additional fees must be charged to schools eligible to participate in the fund. The board may authorize pro rata payments from the fund directly to the lender. The pro rata refund shall be computed as outlined in the Higher Education Act of 1965.

History.—s. 4, ch. 74-360; s. 3, ch. 76-168; s. 77, ch. 77-104; s. 4, ch. 77-426; s. 1, ch. 77-457; s. 4, ch. 78-323; s. 113, ch. 79-400; ss. 5, 6, 7, ch. 81-67; ss. 2, 3, ch. 81-318; s. 7, ch. 84-94; ss. 3, 14, 15, ch. 86-275; s. 16, ch. 89-344; s. 61, ch. 91-105; s. 4, ch. 91-429; s. 58, ch. 92-136; s. 2, ch. 93-170.

246.211 Expenditures.—The State Treasurer shall pay out all moneys and funds provided for in ss. 246.201-246.231 upon proper warrant issued by the Comptroller drawn upon vouchers approved by the board for all lawful purposes necessary for the administration of ss. 246.201-246.231.

History.—s. 6, ch. 74-360; s. 3, ch. 76-168; s. 1, ch. 77-457; s. 4, ch. 78-323; ss. 5, 6, 7, ch. 81-67; ss. 2, 3, ch. 81-318; s. 7, ch. 84-94; ss. 4, 14, 15, ch. 86-275; s. 4, ch. 91-429.

246.213 Power of State Board of Education.—

(1) The State Board of Education, acting on the recommendation of the State Board of Independent Postsecondary Vocational, Technical, Trade, and Business Schools, shall adopt such minimum standards and rules as are required for the administration of ss. 246.201-246.231.

(2)(a) The minimum educational standards for the licensing of schools shall include, but not be limited to, name of school, purpose, administrative organization, educational program and curricula, finances, financial stability, faculty, library, student personnel services, physical plant and facilities, publications, and disclosure statements about the status of the institution in relation to professional certification and licensure.

(b) Rules of the State Board of Education shall require that nonpublic schools administer an entry-level test of basic skills to each student who enrolls in a nondegree program of at least 450 clock hours, or the credit hour equivalent, which purports to prepare such student for employment. The State Board of Independent Postsecondary Vocational, Technical, Trade, and Business Schools shall designate examinations authorized for use for entry-level testing purposes. State Board of Education rules shall require that applicable schools provide students who are deemed to lack a minimal level of basic skills with a structured program of basic skills instruction. No student shall be granted a diploma, as defined in s. 246.203, until he has demonstrated mastery of basic skills. Exceptional students, as defined in s. 228.041, may be exempted from the provisions of this paragraph. The State Board of Education shall identify means through which students who are capable of demonstrating mastery of basic skills may be exempted from the provisions of this paragraph.

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(c) The State Board of Independent Postsecondary Vocational, Technical, Trade, and Business Schools may request that schools within its jurisdiction provide the board all documents associated with institutional accreditation. The board shall solicit from schools which provide such documents only such additional information undisclosed in the accreditation documents provided. The board may conduct a comprehensive study of a school that fails to provide all documents associated with its institutional accreditation. The cost of such study shall be borne by the institution. Standards imposed by the board shall not be constrained in quality or quantity to those imposed by the respective accrediting body.

(d) The State Board of Independent Postsecondary Vocational, Technical, Trade, and Business Schools shall recommend to the State Board of Education minimum placement standards for institutions that conduct programs that prepare students for employment.

(3) The minimum requirements for the licensing of agents shall include name, residential and business addresses, background, training, institution or institutions to be represented, and demonstrated knowledge of statutes and rules related to the authority granted to agents and the limitations imposed upon such authority. No employee of a nonpublic school shall solicit prospective students for enrollment in such school until that employee is licensed by the State Board of Independent Postsecondary Vocational, Technical, Trade, and Business Schools as an agent.

(4) The State Board of Independent Postsecondary Vocational, Technical, Trade, and Business Schools shall adopt criteria for specialized associate degrees, diplomas, certificates, or other educational credentials that will be recognized in licensed schools. The State Board of Independent Postsecondary Vocational, Technical, Trade, and Business Schools shall adopt a common definition for each credential. To determine the level of an independent institution's vocational program or to establish criteria for a specialized degree, the board shall use procedures developed pursuant to s. 239.205, which requires the Department of Education to determine the level of each public postsecondary vocational program.

History.—s. 5, ch. 74-306; s. 3, ch. 76-168; s. 6, ch. 77-426; s. 3, ch. 77-457; s. 4, ch. 78-323; ss. 2, 5, ch. 79-400; ss. 5, 6, 7, ch. 81-67; ss. 2, 3, ch. 81-318; s. 7, ch. 84-94; ss. 5, 14, 15, ch. 86-275; s. 79, ch. 89-344; s. 4, ch. 91-429; s. 59, ch. 92-136.

246.215 License required.—

(1) No independent school required to be licensed pursuant to ss. 246.201-246.231 shall be operated or established within the state until such school makes application and obtains a license or authorization from the board. Each nonpublic school that seeks licensure shall first submit articles of incorporation to the Department of State. After the Department of State approves such articles and verifies that the articles indicate the corporation is a postsecondary school within the meaning and intent of s. 246.203, the corporation shall apply for licensure by the board within 60 days of approval of the articles. Department of State approval of the articles of incorporation shall not constitute authorization to operate the nonpublic school. The Department of State shall immediately transmit approved articles of incorporation for nonpublic schools to the board.

(2) No agent shall solicit any prospective student for enrollment in a nonpublic school until both the agent and the school are appropriately licensed or otherwise authorized by the board.

(3) No independent school required to be licensed pursuant to ss. 246.201-246.231 shall advertise in any manner until such school is granted an appropriate license by the board, nor shall any licensed school advertise in any manner while such school is under an injunction against operating, soliciting students, or offering diplomas.

(4) No license granted by the board shall be transferable to another independent school or to another agent, nor shall school licensure transfer upon a change in ownership of the institution.

(5) Each license granted by the board shall delineate the specific nondegree programs that the nonpublic school is authorized to offer. No such school shall conduct a program unless express authority is granted in its license.

History.—s. 5, ch. 74-306; s. 3, ch. 76-168; s. 1, ch. 77-457; s. 4, ch. 78-323; ss. 2, 6, ch. 79-400; ss. 2, 5, 6, 7, ch. 81-67; ss. 2, 3, ch. 81-318; s. 7, ch. 84-94; ss. 5, 14, 15, ch. 86-275; s. 79, ch. 89-344; s. 4, ch. 91-429.

246.217 License period and renewals.—

(1) All license applications shall be submitted on notarized forms prepared and furnished by the board.

(2) Each new nonpublic school approved by the board shall be issued a temporary or provisional license valid for a maximum of 1 year. Staff of the board shall conduct a site visit and evaluation within the first 6 months of operation of an institution issued such a license.

(3)(a) A nonpublic school that seeks renewal of licensure upon completion of the term of the temporary or provisional license may apply for a regular license. The board shall adopt rules for the provision of regular annual licensure and regular biennial licensure. The requirements for each such form of regular licensure shall be incorporated into the rules of the board.

(b) The board may renew a provisional or regular license as a provisional license for specific purposes enumerated by the board. Redesignation from regular to provisional licensure shall not require disciplinary proceedings pursuant to s. 246.226.

(4)(a) The board may extend a license for a maximum of 4 months. The fees for any license so extended shall be prorated. The board may also extend a provisional license for a maximum of 1 additional year to an institution that cannot comply with licensure requirements based on extenuating circumstances. The affected institution shall be responsible for demonstrating that it has made a good faith effort to meet the requirements of the board. The board shall be responsible for determining institutional compliance with such requirements.

(b) A license which is in effect at the time that a nonpublic school is served with an administrative complaint or a notice of denial of license renewal shall be deemed to remain in effect, subject to s. 246.2265, until final agency action is taken. If an administrative complaint is served at the time the application for license renewal is

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fied with the board, the license shall be deemed to remain in effect, subject to s. 246.2265, until final agency action is taken.

(5) The board shall adopt rules regarding amended licensure for institutions that seek to modify existing courses or programs of study, to add one or more new courses or programs of study, or to expand educational programs. A nonpublic school licensed pursuant to ss. 246.201-246.231 shall receive approval for an amended license prior to implementation of such modification.

History.—s. 9, ch. 74-306; s. 3, ch. 76-168; s. 7, ch. 77-429; s. 5, ch. 77-457; s. 4, ch. 78-323; s. 6, ch. 79-327; ss. 3, 6, ch. 79-48; ss. 3, 5, 6, 7, ch. 81-67; ss. 2, 3, ch. 81-318; s. 7, ch. 84-84; ss. 7, 14, 15, ch. 86-275; s. 21, ch. 89-344; s. 4, ch. 91-429; s. 8, ch. 93-170.

246.219 License fees.—

(1) Each initial application for a license to operate a school shall be accompanied by a license fee of not less than $500, and each application for the renewal of such license shall be accompanied by an annual license fee of at least $300, provided that the fee for a biennial license shall be at least $600. A fee shall be charged for a supplementary application for the approval of any additional field or course of instruction. Such fees shall be delineated, by rule, by the board.

(2) Fees for agents representing schools shall be at least $50 for the initial license and at least $25 for renewal of the license, excluding the cost of obtaining criminal justice information. Applicants shall bear the cost of obtaining such information.

(3) The board shall adopt rules establishing a charge of at least $250 for a delinquent application for license renewal.

(4) All license fees shall be transmitted by the board through the Department of Education to be deposited in the Institutional Assessment Trust Fund created by s. 246.31.

History.—s. 10, ch. 74-306; s. 4, ch. 76-168; s. 5, ch. 77-429; s. 4, ch. 78-323; ss. 4, 6, 7, ch. 81-67; ss. 2, 3, ch. 81-318; s. 7, ch. 84-84; ss. 7, 14, 15, ch. 86-275; s. 22, ch. 89-344; s. 77, ch. 91-105; s. 4, ch. 91-429.

246.220 Surety bonds or insurance.—Surety bonds or insurance shall not be required of any school licensed by the State Board of Independent Postsecondary Vocational, Technical, Trade, and Business Schools, except as may be required by the board to insure the train-out of projected or currently enrolled students, issuance of refunds to projected or currently enrolled students, payment of liabilities to the Student Protection Fund, or for the retrieval or safekeeping of student records.

History.—s. 4, ch. 79-327; s. 3, ch. 76-168; s. 1, ch. 77-457; s. 4, ch. 78-323; ss. 4, 6, ch. 79-48; ss. 5, 6, 7, ch. 81-67; ss. 2, 3, ch. 81-318; s. 7, ch. 84-84; ss. 8, 14, 15, ch. 86-275; s. 4, ch. 91-429; s. 3, ch. 93-170.

246.222 School administrator training.—

(1) The board is authorized to ensure that the administrators of licensed schools are qualified to conduct the operations of their respective positions and to require such administrators to receive continuing education and training as adopted by rule of the board. The positions for which the board may review qualifications and require continuing education and training may include the positions of school director, director of education or training, placement director, admissions director, and financial aid director.

(2) The training of each administrator shall be the type of training necessary to assure compliance with board statutes and rules and with those of other state or federal agencies in relation to the responsibilities of the respective positions.

(3) The board shall adopt general qualifications for each of the respective positions and establish guidelines for the minimum amount and type of continuing education and training to be required. The continuing education and training may be provided by the board, appropriate state or federal agencies, or professional organizations familiar with the requirements of the particular administrative positions. The actual curriculums should be left to the discretion of those agencies and organizations.

(4) Evidence of the administrator's compliance with the continuing education and training requirements established by the board may be included in the initial and renewal application forms provided by the board. Actual records of the continuing education and training received by administrators shall be maintained at the school and available for inspection at all times.

(5) Qualifications of administrators in their respective fields, as well as continuing education and training, may be established by the board as a condition of an application for licensure by a new school or for renewal of a license.

History.—s. 4, ch. 93-170.

246.2235 School closings.—

(1) The intent of ss. 246.201-246.231 is to provide for the protection of the health, education, and welfare of the citizens of Florida. The Legislature finds that the actions of school owners and operators in closing licensed schools and not providing for the proper train-out or appropriate refund of fees paid by students constitutes a serious detriment to the educational delivery system in the state. The Legislature further finds that measures need to be taken to prevent such closures without proper train-outs or refunds and to prohibit school owners who have unlawfully closed a school from operating a similar licensed school in the state. Furthermore, the Legislature finds that when a licensed school ceases operation, it is essential that student records be immediately conveyed to or placed within control of the state. The opportunity for students to continue their education or otherwise be able to assess and provide documentation of their educational status is for the board to have control over all student records upon closure of the school.

(2) Upon closure of a licensed institution, all student records shall become property of the state and shall be conveyed to the board office or to another location designated by the board or its executive director. Copies of records shall be made available to bankruptcy trustees, upon request, and to the student. Confidentiality of the records shall be maintained, to the extent required by law. Any school owner, director, or administrator who knowingly destroys, abandons, or fails to convey or provide for the safekeeping of school and student records is subject to the board's seeking civil penalties in an amount not to exceed $10,000 from each individual. The board is authorized to use moneys in the Student Pro-

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tection Fund to facilitate the retrieval or safekeeping of records of a school that has closed.

(3) A licensed school, through its owners, directors, and administrators, is required to immediately notify the board in writing of the closure of the school. Furthermore, such owners, directors, and administrators must organize an orderly closure of the school, including, but not limited to, the train-out of its students. An owner, director, or administrator who fails to notify the board immediately of the school closure, or fails to organize the orderly closure of the school and train-out of the students, is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(4) The board may conduct an investigation to determine if an applicant for a new school license, or the school's owners, directors, or administrators, either closed a school previously, failed to train-out students or issue appropriate refunds, or had its license to operate a school in this state or an out-of-state school revoked or denied.

(5) Any person convicted of crime relating to the unlawful operation or management of a school shall not be eligible for a license to own, operate, or manage, or be a registered agent for, a licensed school in this state, or be a director or officer in a corporation owning or operating a licensed school. Such person shall not be allowed to operate or serve in a management or supervisory position in a licensed school.

(6) The board is authorized to deny an application for a new school license if the board determines that the applicant, its owners, officers, directors, or administrators were previously operating a school in this or in another state contrary to the health, education, and welfare of the citizens of that state. Factors which may be considered by the board include, but are not limited to, the denial or revocation of a school license, prior criminal or civil administrative proceedings regarding the operation and management of a school, other types of criminal proceedings involving fraud, deceit, dishonesty, or moral turpitude, failure of the school to be properly closed, including training-out or providing for the train-out of its students, and failure to issue appropriate refunds, if any. The board may require an applicant, its owners, officers, directors, or administrators to provide the board with information under oath regarding the prior operation of a school and criminal justice information, the cost of which shall be borne by the applicant in addition to the other license fees.

(7) The board is authorized to refer matters it deems appropriate to the Department of Legal Affairs or the state attorney for investigation and prosecution.

History.—s. 5, ch. 93-17.

246.225 No tax exemptions.—The granting of a license or accreditation under ss. 246.201-246.231 shall not be considered an accreditation for the purpose of tax exemption under state law.

History.—s. 76, ch. 74-104; s. 2, ch. 75-166; s. 1, ch. 77-457; s. 4, ch. 78-323; s. 5, ch. 81-67; ss. 2, 3, ch. 81-318; s. 7, ch. 84-44; ss. 14, 15, ch. 86-21; s. 4, ch. 91-429.

246.226 Disciplinary proceedings.—

(1)(a) The board shall cause to be investigated any suspected violation of a provision of ss. 246.201-246.231 or rule of the board. Regardless of the source of information regarding the violation, an investigation may be continued until it is completed and an investigative report is presented to a probable cause panel of the board.

(b) Any institution or individual that is the subject of an investigation by the board shall be notified by the board of the investigation and the substance of the complaint that prompted the investigation. Notification may be withheld upon the recommendation of the executive director and concurrence of the chairman of the board if both parties agree that notification would impede the investigation. The board may also withhold notification to a person under investigation for an act which constitutes a criminal offense.

(2) The board shall investigate complaints in a timely manner. The complaint and all information obtained by the board during the resultant investigation shall be confidential and exempt from the provisions of s. 119.07(1) for a maximum of 10 days after the probable cause panel declares a finding of probable cause. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14. The board may provide information obtained pursuant to this subsection to any law enforcement or regulatory agency. The board may utilize consultants who possess expertise or specialized knowledge regarding the substance of the investigation. Any such consultants shall be subject to the provisions of this subsection. A consultant so utilized shall prepare and submit an investigative report that contains the investigative findings and recommendations concerning the existence of probable cause to the probable cause panel. The probable cause panel may request additional investigative information within 15 days of receipt of an investigative report. The panel shall make its determination of probable cause no later than 30 days after it receives the final investigative report.

(3) The determination of probable cause shall be made by a majority vote of the probable cause panel. The panel shall be composed pursuant to board rule. The proceedings of such panel shall be exempt from the provisions of ss. 120.53(1)(d) and 286.011 until the panel declares a finding of probable cause. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14. After the panel declares a finding of probable cause, the board may issue an administrative complaint and prosecute such complaint pursuant to the provisions of chapter 120.

(4) The board members who did not serve on the probable cause panel shall review the recommended order of the hearing officer and shall issue a final order for each such hearing. Such order shall constitute final agency action.

(5) Upon written request by an informant, the board shall notify the informant of the status of an investigation, civil action, or administrative proceeding. The findings of the probable cause panel shall not be disclosed until the information is no longer confidential.

(6) A privilege against civil liability is granted to any informant or any witness who provides information in good faith for an investigation or proceeding conducted pursuant to this section.

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(7) The board may deny initial licensure, renewal licensure, or amended licensure on the basis of all information available to the board. Such actions shall not be considered disciplinary and shall not require probable cause proceedings.

History.—ss. 9, 15, ch. 59-275; s. 1, ch. 86-375; s. 24, ch. 89-344; s. 84, ch. 90-306; s. 4, ch. 91-429.

246.2265 Additional regulatory powers while disciplinary proceedings are pending; cease and desist orders.—

(1) The board may, in conjunction with an administrative complaint or notice of denial of licensure, issue cease and desist orders for the purpose of protecting the health, safety, and welfare of students, prospective students, and the general public. Such orders may be mandatory or prohibitory in form and may order an independent postsecondary institution, officer, employee, or agent to:

(a) Cease and desist from specified conduct which relates to acts or omissions stated in the administrative complaint or notice of denial of licensure; or

(b) Cease and desist from failing to engage in specified conduct which is necessary to achieve or preserve the regulatory purposes of ss. 246.201-246.231.

(2) Cease and desist orders may include, but not be limited to, orders to:

(a) Cease the enrollment of new students or limit enrollment to those students who can be adequately served within the current facilities of the institution by the current officers and employees, or to limit enrollment to those students who meet more restrictive admissions standards.

(b) Modify curricula or methods of instruction, as needed, to ensure that currently enrolled students receive the education or training of the type and quality represented in the institutional catalog.

(c) Cease from advertising, to advertise only with prior approval of the board, or to publish or broadcast corrective or clarifying advertising, as needed, to overcome the effects of previous allegedly deceptive or misleading advertising.

(3) Cease and desist orders issued pursuant to this section shall take effect immediately upon issuance and shall remain in effect until the board takes final agency action. A cease and desist order shall be reviewable at the request of the institution, officer, employee, or agent to whom it is directed as follows:

(a) If formal proceedings have been requested and the matter has been referred to the Division of Administrative Hearings, a motion to abate or modify the cease and desist order may be filed with the division. Any interlocutory order of the presiding hearing officer shall be binding on the parties until final agency action is taken by the board.

(b) If informal proceedings before the board have been requested, the board may, at any regular board meeting, consider and determine a request from the affected party to abate or modify the cease and desist order.

(c) If a party is aggrieved by a cease and desist order after seeking to have the order abated or modified pursuant to paragraph (a) or paragraph (b), the party may seek interlocutory judicial review by the appropriate district court of appeal pursuant to the applicable rules of appellate procedure.

(4) The executive director of the board, with the approval of the chairman of the board, may issue and deliver a cease and desist order to an independent postsecondary institution.

History.—ss. 25, 47, ch. 89-344; s. 4, ch. 91-429.

246.227 Injunctive relief; unlicensed operation of a school; cease and desist notice; civil penalty.—

(1) The board may obtain an injunction or take any action it deems necessary against any school or agent in violation of ss. 246.201-246.231, but no such proceedings and no orders issued therein or as a result thereof shall bar the imposition of any other penalties which may be imposed for the violation of this act.

(2) An unlicensed independent postsecondary institution required to be licensed pursuant to ss. 246.201-246.231 that advertises or causes advertisements to be made public through which students are solicited for enrollment or are offered diplomas shall be in violation of the provisions of ss. 246.201-246.231. A licensed independent postsecondary institution that is under temporary or permanent injunction against operating or offering diplomas that advertises or causes advertisements to be made public through which students are solicited for enrollment or are offered diplomas shall be in violation of such injunctive order upon presentation to the court of the advertisement.

(3) The executive director of the board, with the approval of the chairman of the board, may issue and deliver a cease and desist order to any independent postsecondary institution or agent required to be licensed pursuant to ss. 246.201-246.231 that is not so licensed. The board may file, in the name of the state, a proceeding which seeks issuance of an injunction against any person in violation of any provision of such order.

(4) In addition to or in lieu of any remedy provided in this section, the board may seek the imposition of a civil penalty through the circuit court for any violation for which the board may issue a notice to cease and desist under this section. The civil penalty shall be no less than $500 and no more than $5,000 for each offense. The court may also award to the prevailing party court costs and reasonable attorney's fees and, in the event the board prevails, may also award reasonable costs of investigation.

History.—s. 13, ch. 74-306; s. 3, ch. 76-168; s. 7, ch. 77-457; s. 4, ch. 78-[illegible]; ss. 5, 6, 7, ch. 81-67; ss. 2, 3, ch. 81-318; s. 7, ch. 84-[illegible]; s. 25, ch. 89-344; s. 4, ch. 91-429.

246.228 Grounds for disciplinary action; action by the board.—

(1) The following acts shall constitute grounds for which the disciplinary actions specified in subsection (2) may be taken:

(a) Attempting to obtain, obtaining, or renewing a license to operate a school by bribery, by fraudulent misrepresentation, or through an error of the board.

(b) Having a license to operate a school revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of another state, territory, or country.

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(c) Pleading nolo contendere to or being found guilty, regardless of adjudication, of a crime in any jurisdiction.

(d) Aiding, assisting, procuring, or advising any unlicensed person to operate a school contrary to this chapter or to a rule of the board.

(e) Delegating professional responsibilities to a person when the licensee delegating such responsibilities knows or has reason to know that such person is not qualified by training, experience, or licensure to perform them.

(f) Violating any provision of this section or rule of the board, the penalty for which is a disciplinary action set forth in subsection (2), or any lawful order of the board previously entered in a disciplinary hearing or failing to comply with a lawfully issued subpoena of the board.

(g) Conspiring with another licensee or with any other person to commit an act, or committing an act, which would tend to coerce, intimidate, or preclude another licensee from lawfully advertising his services.

(h) False, deceptive, or misleading advertising.

(i) Committing other acts prohibited by rule of the board.

(2) The board shall enter a final order either dismissing the complaint or imposing one or more of the following penalties:

(a) Denial of an application for licensure.

(b) Revocation or suspension of a license.

(c) Imposition of an administrative fine of no less than $100 and no more than $1,000 for each count or separate offense. Such fine shall be deposited in the Institutional Assessment Trust Fund pursuant to s. 246.31.

(d) Placement of the licensee on probation for a period of time and subject to such conditions as the board may specify.

(e) Issuance of a written reprimand to the school. Such reprimand shall be posted in a prominent place at the school for such period of time as the board may specify.

History.—ss. 11, 15, ch. 80-275; s. 27, ch. 89-344; s. 79, ch. 91-108; s. 4, ch. 91-429.

246.229 Enforcement.—The Department of Legal Affairs or the state attorney shall have authority to enforce ss. 246.201-246.231.

History.—ss. 14, ch. 74-382; s. 3, ch. 76-168; s. 1, ch. 77-457; s. 4, ch. 79-323; ss. 5, 6, 7, ch. 81-67; ss. 2, 3, ch. 81-318; s. 7, ch. 82-66; ss. 12, 14, 15, ch. 80-275; s. 28, ch. 89-344; s. 4, ch. 91-429.

246.231 Penalties.—Any person who violates or fails to comply with ss. 246.201-246.231 or any of the rules promulgated thereunder:

(1) For the first conviction, is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(2) For a second or subsequent conviction, is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(3) May have his license revoked.

History.—s. 15, ch. 74-382; s. 3, ch. 76-168; s. 1, ch. 77-457; s. 4, ch. 79-323; ss. 5, 6, 7, ch. 81-67; ss. 2, 3, ch. 81-318; s. 7, ch. 82-66; ss. 12, 14, 15, ch. 80-275; s. 28, ch. 89-344; s. 4, ch. 91-429.

246.232 Hazing policy.—Private colleges and universities shall provide the State Board of Independent Colleges and Universities with a copy of their hazing policy as evidence of compliance with this act.

History.—s. 2, ch. 90-327.

246.31 Institutional Assessment Trust Fund.—

(1) There is created an Institutional Assessment Trust Fund to be administered by the Department of Education pursuant to this section and rules of the State Board of Education. The trust fund shall consist of all fees and fines imposed upon nonpublic colleges and schools pursuant to this chapter, including all fees collected from nonpublic colleges for participation in the common course designation and numbering system. The department shall maintain separate revenue accounts for the State Board of Independent Colleges and Universities, the State Board of Independent Postsecondary Vocational, Technical, Trade, and Business Schools, and the Department of Education.

(2) Funds from the trust fund shall be used for purposes including, but not limited to, the following:

(a) Authorized expenses of the respective boards in carrying out their required duties.

(b) Financial assistance programs for students who attend nonpublic institutions licensed by the board.

(c) Educational programs for the benefit of current and prospective owners, administrators, agents, and faculty of institutions licensed by the board.

(d) Authorized expenses of the Department of Education incurred as a result of the inclusion of nonpublic colleges in the common course designation and numbering system.

(3) The board may utilize other individuals or entities to administer the programs authorized in subsection (2).

History.—ss. 23, 47, ch. 89-344; s. 79, ch. 91-108; s. 4, ch. 91-429; s. 13, ch. 90-327.

Note.—Former s. 246.224.

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Appendix B

Commission Survey/Results

# of respondents 54 (33%)

POSTSECONDARY EDUCATION PLANNING COMMISSION

State Board of Independent Postsecondary Vocational, Technical, Trade, Business Schools
School Administrator's Questionnaire

This questionnaire will help the Commission in its legislatively mandated review of the policies and procedures of the SBIPVTTBS. Please read and complete each item carefully. Mark [x] only one answer unless otherwise indicated. **Your answers will be compiled anonymously.** Thank you for your cooperation.

1. How many licensed facilities in Florida are part of your instructional corporation?
[37] One [9] 2-4 [2] 5-7 [6] More than seven

2. Type(s) of credentials offered at any of your licensed facilities in Florida
[9] Specialized Degree [36] Diploma [22] Certificate [0] Other

3. Number of new students enrolled during the last fiscal year (July 1, 1992- June 30, 1993) who **did not have** a high school diploma or GED.
[23] None [13] 1-20 [9] 21-50 [3] 51-100 [6] Over 100

4. Number of new students **without a high school diploma or GED** that withdrew before finishing the program in which they were enrolled?
[27] None [13] 1-20 [3] 21-50 [1] 51-100 [2] Over 100 [8] Not applicable

5. Number of enrolled new students at your institution in the last fiscal year that required basic skills remediation? **[49] none [3] 1-20 [0] 21-50 [1] 51-100 [1] over 100**

6. How do students in your institution receive basic skills remediation?
[9] In-house at your institution [3] Public sector institutions [0] Other private institutions [36] Not applicable

7. List the programs at your institution in which completers require outside validation (i.e., licensure or certification by DPR or other regulatory board)

25 schools responded. Examples are; nursing assistant, cosmetology, acupuncture, truck driving, automotive, barber, electrolysis, scuba instruction.

8. Does your institution currently have a train-out agreement(s) with other institutions in Florida which would enable students to complete their education in the event of school closure? **[9] Yes [45] No**

9. Has your institution ever trained-out students of another institution that closed in Florida?
[14] Yes [40] No

10. Do you support a mandatory train-out agreement for all licensed schools?
[22] Yes [30] No

11. Should schools participating in Title IV financial aid programs be required to post a bond in order to participate in a student protection plan? **[9] Yes [39] No**

12. Should schools participating in Title IV financial aid programs be required to pay additional fees for participation in a student protection plan? **[10] Yes [38] No**

13. Does your institution use the student competencies/outcomes contained in the Curriculum Frameworks developed by the Department of Vocational, Adult and Community Education (DVACE) for: [mark one]:

[10] All programs

[2] Certain programs, please specify nursing assistant,

Cosmetology

[36] Do not use the competencies/outcomes contained in the curriculum frameworks established by DVACE .

14. In your opinion, should the SBIPVTTBS:

Require all schools to use the DVACE student competencies/outcomes for applicable programs? **[8] Yes [38] No**

Develop a modified version of the DVACE student competencies/outcomes and require licensed schools to adopt and follow those guidelines for applicable programs?
[3] Yes [36] No

Allow schools to develop their own competencies/outcomes with board approval.
[35] Yes [13] No

Allow schools to develop their own competencies/outcomes without board approval.
[23] Yes [24] No

Thank you for completing this questionnaire. If you have any questions call Dr. Glenda Rabby at 904-488-0981. Please return by October 8, 1993 to:

Dr. Glenda Rabby, Educational Policy Analyst
Postsecondary Education Planning Commission
Florida Education Center
Tallahassee, Florida 32399-0400

POSTSECONDARY EDUCATION PLANNING COMMISSION

State Board of Independent Postsecondary Vocational, Technical, Trade, Business Schools School Administrator's Questionnaire Results

Background

A random survey was distributed to one-third (163) of the licensed proprietary schools in Florida by Commission staff in September 1993. Thirty-three percent (54) of the surveys were returned and tabulated. The survey was designed to ascertain the opinions of school owners on various issues relating to the Commission's review of the policies and procedures of the State Board of Independent Postsecondary, Vocational, Technical, Trade, and Business Schools (SBIPVTTBS).

Demographics

Of the 54 respondents to the survey, 69 percent represent a school with only one licensed facility in the state, 35 percent of the institutions are approved by an accrediting agency formerly recognized by COPA (Council on Postsecondary Accreditation). Approximately 9,000 students (12 percent of total student population) are enrolled in schools that responded to the survey.

Basic Skills

Fifty-seven percent of the responding schools enrolled students during the last fiscal year who did not have a high school diploma or GED. Thirty-five percent of the respondents reported having students (without a high school diploma or GED) who dropped out before finishing the program. Only nine percent of the schools reported having students who required basic skills remediation. Nineteen percent of the respondents reported providing "in-house" basic skills remediation, while three schools referred their students to a public facility for remediation.

Train-out

Eighty-three percent of the responding schools do not have a train-out agreement with another institution in Florida that would enable students to complete their education in the event of closure, yet 26 percent have trained-out the students of another institution which closed. Forty-two percent of the respondents support a mandatory train-out agreement for all licensed schools. By a large majority, school owners were opposed to requiring schools that receive Title IV financial aid funds to (a) post a bond to participate in the student protection plan (81%), or (b) pay additional fees for participation in the plan (80%).

Competencies/Outcomes

Seventy-five percent of the respondents do not use the competencies/outcomes contained in the curriculum frameworks established by the Division of Vocational, Adult and Community Education (DVACE). Because the respondents checked more than one answer to the question when asked what action the Board should take regarding student competencies/outcomes, it is impossible to draw a definitive answer to that question. However, respondents were opposed (83%) to the Board mandating that all schools use the DVACE competencies and outcomes. Seventy-three percent of the respondents supported developing competencies/outcomes with Board approval.

Appendix C

Student Complaints, Student Protection Plan and School Closure Data

STUDENT COMPLAINTS, STUDENT PROTECTION PLAN AND SCHOOL CLOSURE DATA

TABLE 1

COMPLAINTS RECEIVED BY SBIPVTTBS CONCERNING INSTITUTIONS UNDER ITS LICENSING AUTHORITY 1990-91 TO 1992-93

YEAR	NUMBER OF COMPLAINTS					
	ACADEMIC AFFAIRS	TUITION, REFUNDS AND OTHER COST	ADVERTISING	UNLICENSED SCHOOLS	PERSONAL	TOTAL
1990-91	79	133	17	10	53	292*
1991-92	92	253	16	22	56	439*
1992-93	53	226	18	20	115	432*

* Complaints directed against the American Career Training (or American Career Travel Training, or the Hart School for Professional Secretaries) accounted for 25 to 31 percent of the annual complaints.

Source: State Board of Independent Postsecondary Vocational, Technical, Trade, and Business Schools, **Annual Report**, 1990-91, 1991-92, 1992-93.

TABLE 2

NUMBER OF COMPLAINTS FILED AGAINST INSTITUTIONS OVER A THREE-YEAR PERIOD 1990-91 TO 1992-93

NUMBER OF INSTITUTIONS	326	41	3	2	1 @ 39 1 @ 57 1 @ 347
NUMBER OF COMPLAINTS	1-5	6-10	11-15	16-20	> 20

Source: State Board of Independent Postsecondary Vocational, Technical, Trade, and Business Schools.

TABLE 3

NUMBER OF CLOSURES OF SBIPVTTBS - LICENSED INSTITUTIONS

YEAR	NUMBERS OF CLOSURES
Prior to 1986-87*	70
1986-87*	41
1987-88*	33
1988-89*	37
1989-90	84
1990-91	92
1991-92	73
1992-93	80
TOTAL	**668**

*Incomplete data

Source: State Board of Independent Postsecondary Vocational, Technical, Trade, and Business Schools.

Note: Because of incomplete data for closing date, the column of number closures does not add up to the total number of closures.

TABLE 4

FEE STRUCTURE FOR SCHOOLS PARTICIPATING IN STUDENT PROTECTION FUND

PROGRAM HOURS OR CREDIT HOUR EQUIVALENT	AMOUNT PER STUDENT
1 - 300	$1
301 - 600	2
601 - 900	3
901 - 1200	4
1200 AND ABOVE	5

Source: Chapter 6F-2.0017, F.A.C.